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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,338	06/09/2008	Jacques Montes	W51.12-0027	5192

27367 7590 06/29/2010  
WESTMAN CHAMPLIN & KELLY, P.A.  
SUITE 1400  
900 SECOND AVENUE SOUTH  
MINNEAPOLIS, MN 55402

EXAMINER
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BIBBEE, CHAYCE R

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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06/29/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,338	<b>Applicant(s)</b> MONTES, JACQUES	
	<b>Examiner</b> CHAYCE BIBBEE	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 04/06/2010 have been fully considered but they are not persuasive. Applicant argues that the cited reference of Moles et al fails to teach or suggest the newly amended claim limitation of "analyzing the transmitted data representative of said at least one operation by the remote analysis device". Examiner respectfully disagrees as Moles in at least paragraph [0067] discloses that after the OTAMD server receives the diagnostic testing request message the server uses manufacturer and model identification information included in the diagnostic testing request message transmitted by MS to determine the correct interpreted bytecode application program and diagnostics data file to include in the testing file, thus analyzing the transmitted data representative of said at least one operation by the remote analysis device. Therefore the rejection is maintained.
2. Claims 17-31 are presented for examination.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 2617

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 17-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Moles et al (20020072359).

Consider claims 17, 30, and 31. Moles teaches A method for analysing the operation of a radiocommunication terminal according to a predetermined radiocommunication protocol, **(See at least paragraph [0018])**. the method comprising the following steps: receiving by said radiocommunication terminal an analysis scenario and/or analysis parameter; **(See at least paragraph [0018] where Moles discloses the mobile station receiving the diagnostic testing file)**.

and transmitting from said radiocommunication terminal data representative of at least one operation to be analysed to a remote analysis device, via a connection according to said predetermined radiocommunication protocol, subsequent to said step of receiving; **(See at least paragraph [0028])**. and

analyzing the transmitted data representative of said at least one operation by the remote analysis device. **(See at least paragraph [0067])**.

Consider claim 18. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches The method according to claim 17 and further comprising a step involving the execution of a sequence of at least one operation, in said radiocommunication terminal, and temporary storage of said data representative of said

Art Unit: 2617

operation(s), and wherein the step of transmitting comprises a step of batch transmission of said data representative of said operation(s), to said remote analysis device. **(See at least paragraph [0068]).**

Consider claim 19. Moles et al teaches all of the recited limitations of claim 18. Moles further teaches wherein said execution and transmission steps successively use the same radiocommunication protocol. **(See at least paragraph [0068]).**

Consider claim 20. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches The method according to claim 17, wherein said analysis parameter includes at least one of the following elements:

identification of at least one software element to be analysed; **(See at least paragraph [0068]).**

identification of at least one data item to be transmitted; **(See at least paragraph [0068]).**

identification of a sequence of at least one operation to be performed; **(See at least paragraph [0068]).**

indication of an analysis level. **(See at least paragraph [0068]).**

Consider claim 21. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches The method according to claim 17, wherein the method further includes a step, previous to the step of transmitting, in which said radiocommunication terminal

Art Unit: 2617

receives data for configuring the transmission to said remote analysis device. **(See at least paragraph [0018]).**

Consider claim 22. Moles et al teaches all of the recited limitations of claim 21. Moles further teaches The method according to claim 21, wherein said configuration data includes at least one of said following elements:

a telephone number corresponding to said remote analysis device; **(See at least paragraph [0066]).**

and parameters for configuration of the transmission of data to said remote analysis device. **(See at least paragraph [0018]).**

Consider claim 23. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches wherein the method implements an encryption for the transmission of data to and/or from said radiocommunication terminal. **(See at least paragraph [0031]).**

Consider claim 24. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches The method according to claim 17, wherein the method uses an encryption key for the transmission of said analysis scenario and/or said analysis parameters. **(See at least paragraph [0031]).**

Consider claim 25. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches The method according to claim 17 and further comprising a subsequent

Art Unit: 2617

step in which said radiocommunication terminal receives updated data from the remote analysis device, based on the analysis of said data. **(See at least paragraph [0068]).**

Consider claim 26. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches The method according to claim 17, wherein said step of receiving also uses said radiocommunication protocol. **(See at least paragraph [0018]).**

Consider claim 27. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches The method according to claim 17, wherein said radiocommunication terminal implements an automated system, controlled by the analysis scenario transmitted by said remote analysis device and/or an analysis scenario stored in said radiocommunication terminal. **(See at least paragraphs [0018], [0023], and [0068]).**

Consider claim 28. Moles et al teaches all of the recited limitations of claim 27. Moles further teaches The method according to claim 27, wherein said scenario ensures that at least one operation normally performed by a user of said radiocommunication terminal is performed. **(See at least paragraphs [0018], [0023], and [0068]).**

Consider claim 29. Moles et al teaches all of the recited limitations of claim 17. Moles further teaches wherein said radiocommunication terminal implements http commands, used to control the remote analysis device. **(See at least paragraph [0050]).**

***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHAYCE BIBBEE whose telephone number is (571)270-7222. The examiner can normally be reached on Monday-Friday 7:30 a.m.-5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

CHAYCE BIBBEE  
Examiner  
Art Unit 2617